

## Message Text

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ACTION DLOS-04

INFO OCT-01 NEA-10 IO-13 ISO-00 ACDA-07 AGR-05 AID-05

CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DODE-00

DOT-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-02

INR-07 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01

OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 6927

INFO AMEMBASSY CAIRO

AMEMBASSY TEL AVIV

C O N F I D E N T I A L USUN 1600

FROM LOS US DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS: EGYPT (STRAITS AND DISPUTE SETTLEMENT)

REF: CAIRO 4870

1. US DEL INTENDS TO APPROACH EGYPTIAN DEL ON STRAITS QUESTION IN LIGHT EGYPT'S SUPPORT OF HARD LINE STRAITS STATES AMENDMENTS TO SNT THAT WOULD GUT FREE TRANSIT IN STRAITS CONNECTING TWO PARTS OF THE HIGH SEAS (EG., GIBRALTAR AND BAAB-EL-MANDEB).

2. THERE HAD BEEN SPECULATION IN THE CONFERENCE THAT EGYPT, LIKE SAUDI ARABIA AND ALGERIA, WOULD NOW SUPPORT FREE TRANSIT OF STRAITS CONNECTING TWO PARTS OF THE HIGH SEAS. THE FRENCH AND OTHERS HAVE POINTED OUT THAT  
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THE EGYPTIANS SHOULD BE CONCERNED ABOUT POSSIBLE FUTURE

DEVELOPMENTS IN BAB-EL-MANDEB, AND ABOUT THE CONTROL OF CANAL TRAFFIC AND OTHER EGYPTIAN INTERESTS THAT COULD BE EXERCISED AT BAB-EL-MANDEB. US DEL WOULD APPRECIATE DEPARTMENT COMMENTS ON THESE OR OTHER ARGUMENTS THAT COULD BE USED WITH THE EGYPTIANS.

3. WE ARE UNCERTAIN WHETHER OR NOT TO RAISE THE ISSUE OF SNT ARTICLE 44 (1) (B) AND (2), WHICH APPLIES NON-SUSPENDABLE INNOCENT PASSAGE, NOT REPEAT NOT FREE TRANSIT, TO STRAITS CONNECTING HIGH SEAS TO TERRITORIAL SEAS (EG., TIRAN). IT SEEMS CLEAR THAT THE ISRAELIS REGARD ARTICLE 44 AS AN ABSOLUTE MINIMUM, AND WILL LAUNCH MAJOR CAMPAIGN WITH US SHOULD IT BE ENDANGERED, SINCE DELETION OR MAJOR ALTERATION OF ARTICLE 44 PROVISIONS WOULD UNDO EXISTING NON-SUSPENDABLE INNOCENT PASSAGE REGIME PROVIDED FOR IN 1958 TERRITORIAL SEA CONVENTION, AND INSTEAD ALLOW THE COASTAL STATE TO SUSPEND INNOCENT PASSAGE UNDER THE GENERAL RULES APPLICABLE TO THE TERRITORIAL SEA. MOST ARAB DELEGATIONS SUPPORTED ELIMINATION OF THE NON-SUSPENDABLE INNOCENT PASSAGE RULE FOR STRAITS CONNECTING THE HIGH SEAS TO THE TERRITORIAL SEA, BUT DO NOT REPEAT NOT APPEAR TO HAVE MOUNTED A MAJOR CANPAIGN AMONG OTHER LDC'S. THUS, THE CHAIRMAN OF COMMITTEE II (AGUILAR OF VENEZUELA) MAY WELL DECIDE TO LEAVE THE PROVISION ALONE IN HIS NEXT TEXT. US DEL BELIEVES A DISCREET INQUIRY, IN THE COURSE OF CONVERSATIONS, OF EGYPTIAN ATTITUDES OF ARTICLE 44 WOULD BE USEFUL UNLESS DEPARTMENT PERCEIVES OBJECTION.

4. PARA 2 REFTTEL REPORTS EGYPTIAN CONCERN ABOUT DISPUTES WITH ISRAEL BEING SUBJECTED TO COMPULSORY DISPUTE SETTLEMENT OF LOS CONFERENCE. AS US DEL HAS REPORTED, ISRAEL APPARENTLY HAS THE SAME ATTITUDE. DURING NEGOTIATIONS IN DISPUTE SETTLEMENT AT GENEVA SESSION, WE SUPPORTED AN EXCEPTION TO COMPULSORY DISPUTE SETTLEMENT FOR MILITARY ACTIVITIES PURSUANT TO OUR INSTRUCTIONS, AND PRESENTED BOTH ISRAELI AND EGYPTIAN DELS WITH ANOTHER EXCLUSION FROM COMPULSORY DISPUTE SETTLEMENT PROCEDURES FOR MATTERS WHICH ARE BEFORE THE SECURITY COUNCIL. THE ISRAELIS HAVE TOLD US THIS IS NOT ENOUGH, CONFIDENTIAL

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BUT EGYPT HAS NOT RESPONDED. BOTH EXCEPTIONS APPEAR IN ARTICLE 18 OF THE SNT ON DISPUTE SETTLEMENT, AND WE INTEND TO INQUIRE OF EGYPTIAN DEL WHETHER THESE CLAUSES MEET ITS CONCERN. DEPARTMENT SHOULD NOT THAT SECURITY COUNCIL EXCEPTION IS DELIBERATELY DRAFTED SO THAT NO DISPUTE SETTLEMENT PROCEEDINGS COULD BE HELD UNDER LOS TREATY ON A MATTER BEFORE THE SECURITY COUNCIL UNLESS THERE IS A POSITIVE DETERMINATION BY THE SECURITY COUNCIL

THAT SUCH PROCEEDINGS DO NOT INTERFERE WITH THE EXERCISE  
OF ITS FUNCTIONS.  
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## Message Attributes

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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
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